



Paper No. 15

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OFFICE OF PETITIONS

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WASHINGTON DC 20006**

In re Application of :
Mitragotri et al. :
Application No. 09/868,442 :
Filed: July 24, 2001 :
Attorney Docket No. 62803.000008 :

ON PETITION

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 17, 20004, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS IMMATERIAL**.

A petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. However, this application was filed under the provisions of 35 U.S.C. § 371 and, as such, represents the national stage entry of PCT/US99/30065 filed December 17, 1999. The U.S. filing date of the above-identified national stage application is not July 24, 2001, which merely represents the date of entry of the international application into the national stage; rather, by statute (35 U.S.C. § 363) the true filing date herein is the international filing date of the international stage of the PCT application: December 17, 1999. See MPEP 1893.03(b). Accordingly, no petition and fee under 37 CFR 1.78(a)(3) are required for applicant to amend his priority claim, as the filing date of this application precedes the effective date of those provisions added by the American Inventors Protection Act. It is noted, however, that any proper claim for benefit of prior U.S. 09/227,623 must also state the relationship of this application to the '623 application (e.g., continuation, or continuation in part, or divisional etc.)

The petition fee of \$1330 has been credited to deposit account No. 50-0206.

This application is being returned to technology Center AU 3736.

Any questions concerning this decision on petition may be directed to the undersigned at (703) 305-1820. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy